

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Criminal Case No.: 1:21-CR-34
(JUDGE KLEECH)**

CHARLES E. MCGHEE, JR.,

Defendant.

**REPORT AND RECOMMENDATION RECOMMENDING THAT
DEFENDANT'S MOTION TO SUPPRESS EVIDENCE AND
STATEMENT [ECF NO. 27] BE DENIED AS MOOT**

Presently pending before the undersigned Magistrate Judge is Defendant's Motion to Suppress Evidence and Statement [ECF No. 27], filed on July 5, 2021. By Order dated July 6, 2021 [ECF No. 28], United States District Judge Thomas S. Kleech referred the motion to the undersigned for conducting a hearing and entering a report and recommendation as to disposition of the motion.

The undersigned also is in receipt of the Government's Response in Opposition to Defendant's Motion to Suppress Evidence and Statement, filed on July 13, 2021. [ECF No. 31]. The undersigned conducted a hearing on Defendant's motion on July 15, 2021, at which the Court heard witness testimony and accepted exhibits into evidence. At this hearing on July 15, 2021, the Court was unable to receive all of the parties' evidence and argument, and so continued the hearing generally pending a continuance of the pre-trial and trial dates in this matter. [ECF No. 36]. Thereafter, the undersigned scheduled further proceedings on the motion for August 30, 2021.

However, before conducting further proceedings, the Court was informed by counsel for the parties that the Government and Defendant were negotiating a possible plea agreement. To this end, the undersigned conducted Status Conferences on September 13, 2021 [ECF No. 42],

September 30, 2021 [ECF No. 44], and October 1, 2021. [ECF No. 47]. During these Status Conferences, the undersigned discussed with Defendant and his counsel their desire to continue further proceedings on the merits of Defendant's motion. Defendant and his counsel stated on the record each time their desire to so continue further proceedings.

At the Status Conference on October 1, 2021, counsel for the Government, counsel for Defendant, and Defendant indicated to the undersigned that the parties had entered into a written plea agreement. Thus, the undersigned scheduled the matter for a plea hearing for October 5, 2021 [ECF No. 46] and then conducted such a plea hearing on that date. At both the Status Conference on October 1, 2021 and during the plea hearing on October 5, 2021, both Defendant and his counsel stated on the record their intention to no longer pursue the motion to suppress in light of the parties entering a plea agreement. The undersigned indicated to Defendant and his counsel that the undersigned would enter the subject Report and Recommendation to recommend to the presiding District Judge that the motion to suppress thus be denied as moot. Defendant and his counsel stated on the record that they understood and agreed with such action.

Based on the foregoing, the undersigned **RECOMMENDS** that Defendant's motion be and **DENIED as moot** as set forth herein.

Any party have fourteen (14) days (filing of objections) from the date of the filing of this Report and Recommendation to file with the Clerk of the Court **specific written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection.** A copy of such objections should also be submitted to the Honorable Thomas Kleeh, United States District Judge. Objections shall not exceed ten (10) typewritten pages or twenty (20) handwritten pages, including exhibits, unless accompanied by a motion for leave to exceed the page limitations, consistent with LR PL P 12.

Failure to timely file written objections to the Report and Recommendation as set forth above shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

The Clerk of Court is **DIRECTED** to transmit copies of this Report and Recommendation to counsel of record as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

Respectfully submitted October 5, 2021.

A handwritten signature in black ink, appearing to read 'Michael John Aloi', written over a horizontal line.

MICHAEL JOHN ALOI
UNITED STATES MAGISTRATE JUDGE